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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,879	01/10/2005	Carsten H Pedersen	742111-157	1176

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EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

3727

NOTIFICATION DATE

DELIVERY MODE

03/10/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/500,879

Applicant(s)

PEDERSEN, CARSTEN H

Examiner

Gary K. Graham

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2009 and 06 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 5, 9-11 and 14-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silvera et al (US patent 5,768,748) in view of Fechtenburg (US patent 1,859,132).

The patent to Silvera discloses the invention substantially as is claimed, including a device (figs.2,3) for removing undesired occurrences, such as fleas, from fur and hair. The device includes a mouthpiece (14) attached to an end of a tube (16) attached to a vacuum source. The mouthpiece has a mouth opening defined by leading edges (63,83) of front and rear walls and leading edges (85,87) of the side walls. The leading edge (63) is inclined and includes an inclined wall (64,66,68) to which a detachable comb (58) is attached. This comb is substantially orthogonal to a longitudinal axis passing through the mouthpiece. Note that such axis can be wherever so desired and that use of "substantially" allows for deviation from a strict orthogonal relationship. The leading edges (85,87) are inclined relative to such axis. The comb covers less than half the mouth of the mouth piece (see figs.2,3).

The patent to Silvera discloses all of the above recited subject matter with the exception of the leading edges (85,87) have a "wall" thereon to define an inclining wall surrounding the open part of the mouth, the mouth having a substantially circular shape, the comb extending in a plane substantially perpendicular to the axis of the device and the particular tilting of the device during use.

The patent to Fechtenburg discloses a device for removing undesired occurrences in hair. The device includes a mouthpiece (2) having a mouth and includes a comb (7) therein. The walls of the mouth (4,5,11) have a wall (21) at the leading edges there around.

It would have been obvious to one of skill in the art to provide the mouth of the mouthpiece of Silvera with a wall on the leading edges thereof, as clearly suggested by Fechtenburg, to provide a broader surface to enhance vacuum suction and to provide improved comfort to the animal being vacuumed. Broadening of the leading edge such that it is wall shaped is clearly suggested by Fechtenburg. Provision of a wall or flange on the leading edges (83,85,87) of Silvera will provide for an inclined wall surrounding the open part of the mouth as claimed.

With respect to claims 1-3, while Silvera clearly discloses moving the comb through hair of animals to remove the undesired occurrences, he does not discuss particular tilting. However, such tilting or moving of the comb through the hair appears obvious to one of ordinary skill in the art. It is well established when using combs to tilt, laterally move, slide sideways, etc to enable use of the comb for the desired effect. It appears that use of the Silvera device would require moving, tilting and sliding the comb through the hair, including lifting, to inspect the progress of cleaning. It appears that the particular length of stroke and particular movement would depend more on the particular hair to be cleaned and particular infestation than on any inventive concept.

With respect to claim 7, to change the shape of the mouth to substantially circular and to have the comb extend in a plane substantially perpendicular to the axis of the device would have been obvious to one of skill in the art as a mere change in shape or form of the device of Silvera.

With respect to claim 12, Silvera discloses a filter cylinder (38) with filter (48) captured by a locking mechanism (46,52) at a joint between a pipe and tube (18,44).

With respect to claim 13, note cover that "closes" the filter when underpressure is present, at least as far as defined. The cover includes a cylinder (20,26) and an end piece (28).

Allowable Subject Matter

Claims 5, 9-11 and 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1 and 4 and the Japanese references have been considered but are moot in view of the new ground(s) of rejection.

While applicant discusses that tilting of Silvera is not necessary, such is not persuasive. As set forth above, even though Silvera does not discuss tilting, such appears as an obvious variation on the use of the Silvera device. Tilting of combs to provide enhanced or varying degrees of tension on the structure to be cleaned is known. To employ such in Silvera does not appear inventive. Further, even though Silvera is shown being used with a relatively short haired animal, such would not

preclude its use with longer haired animals. Therefore, different maneuvering techniques would clearly be desirable. Even if such tilting were to break the vacuum as suggested by Applicant, such comb manipulation may be necessary to dislodge the occurrences in the hair. Applicant's argument that tilting of the Silvera device would interfere with the operation of the nozzle is noted but not persuasive. Tilting would only enhance operation of the device. To suggest that one using the Silvera device would never employ tilting of the comb in an attempt to enhance the cleaning effect does not appear reasonable to one of ordinary skill in the art. It appears predictable in the use of Silvera to employ basic maneuvering such as sliding, tilting and lifting to enable proper cleaning of the hair of the animal. As set forth above, the particular maneuvering appears to relate more to the particular animal and thus hair cleaned by the Silvera device than on any inventive concept.

As set forth above, Fechtenburg discloses provision of a wall or flange around the leading edge of the mouthpiece. Such could readily be employed in Silvera to broaden the mouth and enhance the comfort to the animal being cleaned.

Applicant's discussion of the angle of the comb is noted but not persuasive. As set forth above, any longitudinal axis for the mouthpiece can be selected. In particular, one that is perpendicular to the comb. Further, an angle of 150 degrees for the comb with respect to the animal would appear to relate to an angle of approximately 60 degrees to an axis passing through the mouth of the mouthpiece or vertically to the animal as shown in figure 3. Such an axis is fairly considered to be at an angle "substantially" orthogonal to the comb as claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727